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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,699	09/18/2003	John Leary	ADAMSRI.031A	4708
20995	7590	11/22/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			FASTOVSKY, LEONID M	
2040 MAIN STREET			ART UNIT	PAPER NUMBER
FOURTEENTH FLOOR				3742
IRVINE, CA 92614			DATE MAILED: 11/22/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/664,699	LEARY ET AL.	
	Examiner Leonid M. Fastovsky	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 07 September 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1,2 and 4-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2 and 4-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 September 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 14 recites the broad recitation "such that" and the claim also recites "less than" which is the narrower statement of the range/limitation.

4. Claim 9 recites the limitation "a wash basin" in 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 4, 6-10, 14-15 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mann (1,120,830) in view of Christophers (EP350453).

Mann teaches a water heater (Fig. 1) comprising a tube comprising of a plurality of conductive tube coils A1 and A2 engaging or being close to adjacent coils, an electric heater C extending along the substantial length of the tubes in good heat conductive relation with the tubes, the heater being positioned on the outside the tube coils such that deposits do not form on the heater, the tubes cross-section creates a recess-distance between the coils and the heater is positioned in the recess. However, Mann does not teach a volume of the heated water.

It would have been obvious to one having ordinary skill in the art to modify Mann's invention to adjust the tubes volume to contain approximately less than 14 ounces of

the heated water as the choice that would have been determined by the user having a desired result in mind.

Further, Mann does not disclose a heater for an aircraft wash basin and a method of heating.

Christophers discloses heating pipes 5 and a wash basin 2.

As for claims 1, 9-10 and 17, it would have been obvious to one having ordinary skill in the art to modify Mann's invention to include the heater for use with a wash basin as taught by Christopher and use it for an aircraft wash basin as an alternative use of the water heater for washing hands on an aircraft.

As for claims 14-15 and 18, it would have been obvious to one having ordinary skill in the art to use the heater for a wash basin as taught by Christopher in the method of heating for an aircraft wash basin because Mann in view of Chistophers discloses all structural elements of the invention and capable of using the water heater for washing hands on an aircraft.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mann in view of Christophers and further in view of Leuschmer et al.

Mann in view of Christophers discloses substantially the claimed invention, but does not disclose that the heating element is brazed. Leuschmer discloses a heater 4 joined with tube 4 by brazing 5. It would have been obvious to one having ordinary skill in the art to modify the invention of Mann in view of Christophers to join a tube and a heater by brazing in order to secure the joint as taught by Leuschmer (col. 1, lines 40-45).

8. Claims 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mann in view of Christophers and further in view of Winters et al. Mann in view of Christophers discloses substantially the claimed invention, but is silent about a temperature range. Winter disclose a water heater operating in a temperature range from 68 to 100 degree F.

It would have been obvious to one having ordinary skill in the art to modify the invention of Mann in view of Christophers to adopt a temperature range from 68 to 100 degree F in order to preclude any hot outer surfaces as taught by Winter (col. 1, lines 37-42).

9. Claims 12 –13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mann in view of Christophers and Winter et al and further in view of Alston.

Mann in view of Christophers and Winter discloses substantially the claimed invention, but does not disclose a tube diameter, its material and its length.

Alston discloses a portable water heater including a tube with 1 and 1/2 inch diameter. It would have been obvious to one having ordinary skill in the art to modify the invention of Mann in view of Christophers and Winter to adopt a tube with  $\frac{3}{4}$  inch diameter as taught by Alston and a length of a tube about 74 inches and a copper or stainless steel as a conventional design change that can be determined by the user having a desired result in mind.

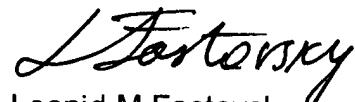
#### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-2 and 4-18 have been considered but are moot in view of the new ground(s) of rejection.

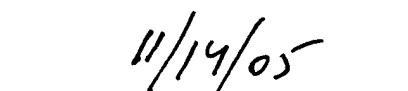
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 571-272-4778. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

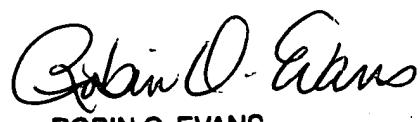
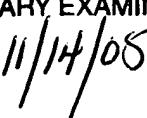
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Leonid M Fastovsky  
Examiner  
Art Unit 3742

lmf

  
11/14/05

  
ROBIN O. EVANS  
PRIMARY EXAMINER  
  
11/14/05